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**LEWIS COUNTY CORONER'S OFFICE
BEFORE THE CORONER**

In the Matter of
Ronda Reynolds, Deceased

No INQ-2011-1
ORDER QUASHING SUBPOENAS

Introduction

On August 10, 2011, I caused subpoenas to be issued to Ron Reynolds, David Reynolds, Jonathan Reynolds, and Joshua Reynolds. The subpoenas directed each of these individuals to appear at and to testify in this Inquest. Based upon the testimony given in prior proceedings by various persons and the documentary evidence to be admitted at this Inquest, it appears that each of these individuals was present in the Reynolds home at the time when a firearm was discharged and the Deceased died.

Inquest Rule 4 provides as follows:

4. Self-incrimination and Other Testimonial Privileges

(a) A witness believing himself to be privileged from appearing and testifying before the Inquest may move, orally or in writing, personally or through counsel, when actually called to the stand or in advance of the Inquest, for any subpoena served upon that witness to be quashed.

(b) Where possible, such motions should be filed in writing and not less than 21 days prior to the date scheduled for the witness to testify. The Motion

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shall be filed with the Office of the Lewis County Coroner and served upon Counsel Assisting. The Coroner or Counsel Assisting shall cause copies of any such Motion to be mailed forthwith to persons especially interested in the matter before the Inquest, or to their counsel of record in the Inquest.

(c) The Coroner shall set a date for the determination of such Motions. He shall give at least 10 calendar days' notice thereof to the moving party and to persons especially interested in the matter before the Inquest, or their counsel of record, who may file briefs in opposition to such Motions. All such briefs shall be filed with the Office of the Lewis County Coroner and served upon Counsel Assisting no later than five calendar days prior to such date. Determinations ordinarily shall be made without oral argument.

On September 14, 2011, a Motion to Quash Subpoena, Memorandum in Support, and an Objection to Subpoena were filed herein electronically on behalf of Ron Reynolds by his counsel, Rayburn K. Dudenbostel. On September 15, 2011, a Motion to Quash Subpoena was filed herein electronically on behalf of David Reynolds, Jonathan Reynolds, and Joshua Reynolds by their counsel, Rick Cordes. At my direction copies of these pleadings were transmitted to those individuals who hold the status of Persons Especially Interested in this Inquest.

On September 18, 2011, a pleading styled "Objections and Motions of Interested Party Barb Thompson" was filed herein by Barbara Thompson's counsel, Royce Ferguson. At my direction a copy of that pleading was transmitted to counsel representing the four Reynolds gentlemen. In that pleading Mrs. Thompson argues that the Motions to Quash are ill-founded in law. She contends that granting these motions would be arbitrary and capricious. Mrs. Thompson further raises objection, in her counsel's words, "to any aspect of these proceedings which would cause to be

1 submitted to the inquest jurors the question—Whether the manner of Ronda Reynolds’
2 death was suicide?” I deal with Mrs. Thompson’s Objection in a separate Order.

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4 **The Reynolds’ Motions to Quash**

5 I turn now to the question of the four Reynolds gentlemen’s motions to quash
6 their respective subpoenas. As I find the points in issue to have been addressed
7 extensively and fully in the pleadings filed, I do not find it necessary to take oral
8 argument before I rule. As a common body of fact and of law applies to each of the two
9 motions, I rule upon both together at this time.

10 The Fifth Amendment to the United States Constitution was ratified along with
11 the rest of our Bill of Rights in 1791. It reads as follows:

12 No person shall be held to answer for a capital, or otherwise infamous crime,
13 unless on a presentment or indictment of a Grand Jury, except in cases arising in the
14 land or naval forces, or in the Militia, when in actual service in time of War or public
15 danger; nor shall any person be subject for the same offense to be twice put in jeopardy
16 of life or limb; nor shall he be compelled in any criminal case to be a witness against
17 himself, nor be deprived of life, liberty, or property, without due process of law; nor shall
18 private property be taken for public use, without just compensation.

19 The Fourteenth Amendment was ratified following the American Civil War. It extended
20 the protections of the Bill of Rights to State proceedings.

21 Our courts have ruled that the Fifth and Fourteenth Amendments’ privilege
22 against self-incrimination entitles a person “to refuse to testify against himself at a
23 criminal trial in which he is a defendant, but it also ‘privileges him not to answer official
24 questions put to him in any other proceeding, civil or criminal, formal or informal, where
25 the answers might incriminate him in future criminal proceedings.’” *State v. Jacobsen*,
26

1 95 Wn.App. 967, 972, 977 P.2d 1250, 1253 (Div. 2, 1999), quoting *Minnesota v.*
2 *Murphy*, 465 U.S. 420, 426 (1984), in turn quoting *Lefkowitz v. Turley*, 414 U.S. 70, 77
3 (1973); see also *In re J.R.U.-S*, 126 Wn.App. 786, 793, 110 P.3d 773, 777 (Div. 1,
4 2005). Although there is no reported decisional law on point, I find no basis to exclude
5 the application of the Fifth Amendment's testimonial privilege to a coronial inquest.
6 Therefore I rule that the privilege, where otherwise applicable, extends with full force to
7 the present Inquest.
8

9 Any testimony which any of the Reynolds gentlemen may give will be recorded
10 on a system ordinarily used for that purpose by the District Court of Washington.
11 Should this inquest result in a finding that the Deceased died as a result of homicide,
12 and should it be possible to determine the person or persons who, more likely than not,
13 were responsible for that homicide, then I am charged by law to issue a warrant or
14 warrants for the arrest of such person or persons: see RCW 36.24.100. That person
15 (or those persons) then will become a criminal defendant. The audio recordings of the
16 proceedings at this inquest then will be reduced to writing and transmitted to the
17 Superior Court Clerk, presumably for use in a criminal prosecution for homicide: see
18 RCW 36.24.080.
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20 I take note of the fact that His Honor Judge Hicks, in a prior proceeding relating
21 to this death, found it appropriate to grant a similar motion which was presented to him
22 by Ron Reynolds to quash his subpoena to testify concerning the death of the
23 deceased. I further note that the motion before me of Ron Reynolds is in terms
24 substantially similar to the motion to quash granted by Judge Hicks. Upon examining
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1 the voluminous documentary evidence in this case I find that Ron Reynolds' three sons'
2 claims of privilege are substantially the same as their father's, both as to pertinent
3 issues of fact and as to the underlying law. While Judge Hicks' ruling is not binding
4 upon me in this Inquest, given the common factual basis I find it of significant
5 persuasive value.

6
7 I find that a significant possibility exists that this Inquest may determine the
8 Deceased to have died by homicide. I base this finding upon my review of the evidence
9 likely to be tendered in this Inquest.

10 If compelled to testify, I anticipate that any of these four moving parties would
11 testify about what they heard or did not hear and about what they saw or did not see
12 during the hours spanning the time of death. Those are among the topics about which I
13 anticipate questioning them. Of course, I cannot predict what answers they would give
14 to my questions. However, I can readily foresee that the State would dissect those
15 answers (whatever they might be) looking for elements of them from which a criminal
16 jury might draw inferences adverse to the interests of these witnesses, and which might
17 help to found determinations of guilt. Thus, I find it to be reasonably likely that the
18 Reynolds' testimony might be used in evidence in a subsequent criminal proceeding
19 against any or all of them.

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21 Accordingly, I grant the motions of Ron Reynolds, David Reynolds, Jonathan
22 Reynolds, and Joshua Reynolds to quash the subpoenas directed to them. I vacate
23 these four subpoenas.
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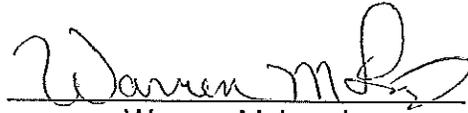
1 Additionally, I see no basis to exclude prior statements of any of the four
2 Reynolds gentlemen from the jury's consideration and my own. To the extent that such
3 statements are admissible in evidence under Inquest Rule 2, such evidence will be put
4 to the jury.

5 Finally, I will instruct the inquest jurors substantially as follows: The privilege
6 against self-incrimination is a cornerstone of the U.S. Bill of Rights. Ron Reynolds,
7 David Reynolds, Jonathan Reynolds, and Joshua Reynolds each has asserted that
8 privilege; accordingly, each has been excused from testifying in this Inquest. The jurors
9 are to draw no inference adverse to any of the four Reynolds gentlemen based upon
10 his exercise of his Constitutional right.

11 Mrs. Thompson reminds us, correctly, that adverse inferences may be drawn
12 from the assertion of this Constitutional privilege in civil proceedings. However, a
13 coroner's inquest is neither a civil nor a criminal proceeding. It is *sui generis*. No
14 Washington authority is directly on point. Our State Constitution reminds us to "recur,"
15 or reflect, back on the "fundamental principles" of our system of laws and government.
16 The findings of this Inquest can lead directly to the issuance of an arrest warrant.
17 Therefore in this context such a "recurrence" leads me to the view that no adverse
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1 inference should be drawn by a coroner's jury from the exercise of anyone's Fifth
2 Amendment privilege.

3 Dated September 27, 2011.

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6 Warren McLeod
7 Coroner

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9 Certificate of Service

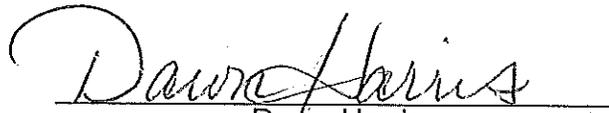
10 On this date I mailed a true copy of the above Notice, and true copies of the foregoing
11 Order Quashing Subpoena to each of the following by prepaid First Class Mail:

12 Rick Cordes, Esq.
13 Attorney at Law
14 2625-B Parkmount Lane SW
15 Olympia, Washington 98502

16 Rayburn K. Dudenbostel, Esq.
17 Attorney at Law
18 P.O. Box 481
19 Elma, Washington 98541

20 Royce Ferguson, Esq.
21 Attorney at Law
22 2931 Rockefeller Avenue
23 Everett, Washington 98201

24 Dated September 27, 2011

25 
26 Dawn Harris
Chief Deputy Coroner
Clerk to the Inquest